

MEMORANDUM

January 19, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MILLICENT L. ROLON
Principal Deputy County Counsel
Law Enforcement Services Division

RE: North American Security, Inc. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 348761

DATE OF
INCIDENT: April 1, 2002

AUTHORITY
REQUESTED: \$335,000


COUNTY
DEPARTMENT: Office of Public Safety

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☒ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on February 15, 2007

SUMMARY

This is a recommendation to settle for up to \$335,000, a breach of contract action brought by North American Security, Inc., and Steve Schreiken, its former owner, against the County of Los Angeles.

LEGAL PRINCIPLE

A public entity may be liable for damages if it breaches a valid contract, and the breach causes damages.

SUMMARY OF FACTS

The Office of Public Safety ("OPS") administers contracts for private security guard services at various County facilities. Guard services are provided pursuant to Proposition A contracts or through "as-needed" agreements for temporary assignments. The rates for services provided at 22 County facilities served by the "as-needed" security guard contractors were reduced, effective April 2, 2002, pursuant to Board-approved contract amendments, while the services provided at the other facilities remained at the higher prevailing rate. North American Security, Inc., ("NAS") provided security at some of the facilities that were subject to the lower rate, and at some facilities subject to the higher rate.

On June 21, 2005, the Board of Supervisors requested the Auditor-Controller to investigate various allegations made by Steve Schreiken and NAS against the OPS. It was alleged that the OPS improperly reduced the hourly rate for all of NAS's security guard services.

During its investigation, the Auditor-Controller identified material variances between the appropriate contract rate and the actual amount paid to NAS under the contracts that were not subject to the Board-approved amendments. It was determined that these variances were attributable to NAS mistakenly billing at the lower rate, and to a general lack of internal controls over invoice processing and payment by OPS, which mistakenly paid the lower rate.

Steve Schreiken and NAS filed a breach of contract lawsuit against the County seeking over \$400,000 in underpayments.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Under-payments	\$400,000
Interest	<u>\$ 40,000</u>
Total	<u><u>\$440,000</u></u>

The proposed settlement calls for the County to pay Steve Schreiken, the former owner of NAS, \$275,000 for all his damages, costs and attorneys' fees. In addition, the County will set aside \$60,000 to be made available to the current owners of NAS, for reimbursement of wages paid to NAS employees affected by the improper underpayments. Under a mechanism set forth in the settlement agreement, in order to be reimbursed, NAS will be required to submit documentation establishing the payments made to the employees.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

Expenses incurred by the County in defense of this matter are attorneys' fees of \$35,456 and \$4,815 in costs.

EVALUATION

This is a case of probable liability. It is undisputed that OPS mistakenly paid NAS the lower contract rate. While NAS mistakenly billed the lower rate, OPS failed to catch the mistake and continued to pay the lower rate. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that would likely exceed the proposed settlement.

Therefore, we recommend a settlement of this matter for payment of up to \$335,000. The Office of Public Safety concurs in the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:MLR:db